

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN DOE,)	
)	
Plaintiff,)	Case No. 4:23-CV-1312
)	
vs.)	
)	
LESLIE SUTTON,)	
)	
Defendant.)	

DEFENDANT’S MOTION TO DISMISS
COUNT I OF PLAINTIFF’S SECOND AMENDED COMPLAINT

Comes now Defendant, Leslie Sutton (“Defendant”), by and through undersigned counsel, and for her Motion to Dismiss Count I of Plaintiff John Doe’s (“Plaintiff”) Second Amended Complaint, states to the court as follows:

1. In Count I, Plaintiff purports to set forth a private cause of action under RSMo. §573.110 (Nonconsensual Dissemination of Private Sexual Images).
2. However, Plaintiff’s Second Amended Complaint does not allege the necessary elements of a private cause of action under RSMo. §573.110.
3. Specifically, Plaintiff does not allege that Defendant’s alleged nonconsensual dissemination of private sexual images was done with the intent to harass, threaten, or coerce.
4. In order to be held liable under RSMo. §573.110’s private cause of action, the person who allegedly committed the offense must disseminate the sexual images with the intent to harass, threaten, or coerce.
5. Plaintiff’s failure to include any allegations to suggest Defendant’s intent was to harass, threaten, or coerce anyone is fatal to his cause of action. *Crest Constr. II, Inc. v. Doe*, 660 F.3d 346, 355 (8th Cir. 2011) (if a claim fails to allege one of the elements necessary to recovery

on a legal theory, the Court must dismiss that claim for failure to state a claim upon which relief can be granted).

6. Defendant files simultaneously her Memorandum in Support of her Motion to Dismiss and incorporates the same by reference as though fully set forth herein.

WHEREFORE, Defendant, Leslie Sutton, requests that this Court enter an Order dismissing Plaintiff's Count I for failure to state claim with to which relief can be granted, and for further relief as the Court deems just and proper.

/s/ Justin A. Hardin

Justin A. Hardin, #57555MO
BROWN & JAMES, P.C.
800 Market Street, Suite 1100
St. Louis, MO 63101
Phone: (314) 421-3400
Fax: (314) 421-3128
jhardin@bjpc.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served by the Court's electronic filing system on this 27th day of March, 2024, on the counsel of record listed below.

Joseph A. Ott
Mark E. Blankenship, Jr.
3544 Oxford Blvd.
Maplewood, MO 6343
joe@ott.law
mark@ott.law
Attorneys for Plaintiff

/s/ Justin A. Hardin

Justin A. Hardin, #57555MO

30200861.1